



# House of Representatives

General Assembly

**File No. 212**

January Session, 2009

Substitute House Bill No. 6143

*House of Representatives, March 25, 2009*

The Committee on Housing reported through REP. GREEN of the 1st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING PROTECTIONS FOR A TENANT WHOSE LANDLORD IS SUBJECT TO A FORECLOSURE ACTION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective from passage and applicable to judgments of*  
2       *foreclosure entered into on or after said date*) A judgment of foreclosure of  
3       a mortgage on real property containing one or more dwelling units  
4       shall not terminate a rental agreement for a dwelling unit that was  
5       entered into between the mortgagor or the mortgagor's agent and a  
6       tenant prior to the commencement of the foreclosure action and no  
7       execution of ejectment may be issued pursuant to section 49-22 of the  
8       general statutes, as amended by this act, prior to the expiration of such  
9       rental agreement and no summary process action may be commenced  
10      prior to the expiration of such rental agreement on the grounds that  
11      the tenant no longer has the right or privilege to occupy the premises  
12      as a result of such judgment of foreclosure.

13      Sec. 2. (NEW) (*Effective from passage*) (a) Whenever a mortgage or  
14      lien of residential real property has been foreclosed and there is a bona

15 fide tenant, as defined in section 47a-20e of the general statutes, in  
16 possession on the date absolute title to the property vests in the  
17 mortgagee, lienholder or successor in interest, no summary process  
18 action pursuant to chapter 832 of the general statutes may be  
19 maintained by the foreclosing party and no execution of ejectment  
20 pursuant to section 49-22 of the general statutes, as amended by this  
21 act, against such tenant may be applied for by or issued to the  
22 foreclosing party against such tenant except (1) for a reason set forth in  
23 subsection (b) of section 47a-23c of the general statutes, or (2) on the  
24 grounds that the foreclosing entity has entered into a bona fide  
25 contract to sell the premises in which the buyer has required that the  
26 building be vacant as a condition of the sale. Any dispute about the  
27 amount of rent to be paid during this period of occupancy may be  
28 resolved in accordance with subsection (c) of section 47a-23c of the  
29 general statutes.

30 (b) The provisions of this section shall not be construed to reduce or  
31 supersede the rights of a tenant under section 47a-20e of the general  
32 statutes. The provisions of this section or section 47a-20e of the general  
33 statutes, shall not be construed to reduce or supersede the rights of any  
34 tenant under section 47a-23c of the general statutes to remain in  
35 occupancy without regard to foreclosure or under any other law that  
36 protects the right of a tenant to remain in occupancy without regard to  
37 foreclosure.

38 Sec. 3. Subsection (a) of section 49-22 of the general statutes is  
39 repealed and the following is substituted in lieu thereof (*Effective from*  
40 *passage and applicable to judgments of foreclosure entered into on or after said*  
41 *date*):

42 (a) In any action brought for the foreclosure of a mortgage or lien  
43 upon land, or for any equitable relief in relation to land, the plaintiff  
44 may, in his complaint, demand possession of the land, and the court  
45 may, if it renders judgment in his favor and finds that he is entitled to  
46 the possession of the land, issue execution of ejectment, commanding  
47 the officer to eject the person or persons in possession of the land and

48 to put in possession thereof the plaintiff or the party to the foreclosure  
 49 entitled to the possession by the provisions of the decree of said court,  
 50 provided no execution shall issue against any person in possession  
 51 [who is not a party to the action] except a transferee or lienor who is  
 52 bound by the judgment by virtue of a lis pendens. The officer shall  
 53 eject the person or persons in possession and may remove such  
 54 person's possessions and personal effects and set them out on the  
 55 adjacent sidewalk, street or highway.

56 Sec. 4. (NEW) (*Effective from passage and applicable to judgments of*  
 57 *foreclosure entered into on or after said date*) Notwithstanding any other  
 58 provision of the general statutes, the holder of a first mortgage on real  
 59 property containing one or more dwelling units who has initiated an  
 60 action to foreclose the mortgage shall be responsible for making  
 61 emergency repairs to such real property during the pendency of the  
 62 foreclosure action if the owner of such real property fails to make the  
 63 repairs. The owner of the real property shall be liable to the entity  
 64 making the repairs for the cost of such repairs.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to judgments of foreclosure entered into on or after said date</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage and applicable to judgments of foreclosure entered into on or after said date</i>	49-22(a)
Sec. 4	<i>from passage and applicable to judgments of foreclosure entered into on or after said date</i>	New section

**HSG**      **Joint Favorable Subst.**

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill prevents the eviction of certain tenants at various stages of the foreclosure process, and makes a first mortgage holder who initiated the foreclosure responsible for making emergency repairs, with the property owner liable for the costs associated with those repairs. This has no fiscal impact.

**OLR Bill Analysis****sHB 6143*****AN ACT CONCERNING PROTECTIONS FOR A TENANT WHOSE LANDLORD IS SUBJECT TO A FORECLOSURE ACTION.*****SUMMARY:**

This bill enhances protections for certain tenants who live in foreclosed property. By law, a foreclosing party may either use the summary process (eviction) laws to evict a tenant after he or she takes title to the foreclosed property or make the tenant a party to the foreclosure action and request an ejectment order from the court upon obtaining a favorable judgment. The bill:

1. removes foreclosure as a ground for terminating a lease agreement that predates it, with certain exceptions;
2. prohibits people who take title to foreclosed property from evicting or bringing an action in ejectment against “bona fide” tenants;
3. limits the grounds for ejecting and evicting bona fide tenants after foreclosure; and
4. limits the people subject to an ejectment or foreclosure to transferees and lienors bound by a foreclosure judgment by virtue of a *lis pendens* (a notice filed on local land records, which advises that a lawsuit is pending (a) against the owner of the designated property and (b) involving the property).

The bill makes the holder of a first mortgage on residential real property who initiates a foreclosure action on the property responsible for making emergency repairs to it during the pendency of the action, if the owner fails to do so. The owner is liable for the cost of the repairs.

It makes a conforming change and technical changes.

EFFECTIVE DATE: Upon passage, applicable to foreclosure judgments entered into after the passage date.

### **EFFECT OF FORECLOSURE ON RENTAL AGREEMENTS THE PREDATE ACTION**

Under the bill, a rental agreement cannot be terminated if the lease the tenant entered with the mortgagor or his or her agent predates the foreclosure action. The tenants cannot be (1) ejected as a result of the foreclosure before their lease expires or (2) evicted on the ground that they no longer have the right or privilege to occupy the dwelling because of the foreclosure judgment.

Under current law, foreclosure terminates leases. Parties named in a foreclosure action may be ejected. Tenants not named in the action may be evicted. The length of time these tenants may continue residing in the foreclosed property depends on whether the tenant is the mortgagor or property owner and whether the property was leased in an arms-length transaction (i.e., the tenant is a “bona fide” tenant).

### **GROUND FOR EJECTMENT AND EVICTION**

By law, bona fide tenants cannot be ejected or evicted on the grounds that the tenant no longer has the right or privilege to occupy the property until (1) 60 days after the foreclosing party or successor in interest obtains absolute title, or the lease expires, whichever occurs first, if the tenant entered a written agreement more than 60 days before the start of the foreclosure action, and (2) 30 days after the foreclosing party or successor in interest obtains absolute title, if the lease predates the foreclosure action by less than 60 days or is oral.

The bill limits the grounds for the ejectment or eviction of bona fide tenant after a foreclosure action. They may only be removed:

1. for cause, which means they cannot be evicted because their lease expires (only for reasons such as nonpayment of rent) and
2. the foreclosing entity has a bona fide contract to sell the

premises to a buyer who makes vacancy a condition of the sale.

The bill requires that rental disputes during the pendency of the eviction or ejectment be resolved by a fair rent commission, where available, or Superior Court.

The bill prohibits anyone from construing the limitations to reduce or supersede the rights of (1) bona fide tenants with leases that predate the foreclosure action as summarized above and (2) elderly, blind, or disabled tenants, or tenants residing in converted condominiums, who may only be removed for cause.

## **BACKGROUND**

### ***Eviction Process***

Once a landlord has established grounds for eviction, he begins the process by serving the tenant with a notice to quit. If the tenant fails to respond to this notice by refusing to move from the rented premises, the landlord may initiate proceedings in Superior Court by filing a summons and complaint. The tenant can respond to the complaint. If a tenant contests the action, the court tries the case and enters judgment. The process ends when the court orders the judgment executed and the sheriff executes it by removing the tenant and his belongings.

## **COMMITTEE ACTION**

Housing Committee

Joint Favorable Substitute

Yea    10        Nay    0        (03/10/2009)